

Title 22: HEALTH AND WELFARE
Chapter 1621: GENERAL PROVISIONS

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WITH LONG-TERM CARE NEEDS.....**

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Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 1621: GENERAL PROVISIONS

§7301. LEGISLATIVE INTENT

1. Findings. The Legislature finds that:

- A. In-home and community support services have not been sufficiently available to many adults with long-term care needs; [1981, c. 511, §1 (NEW).]
- B. Many adults with long-term care needs are at risk of being or already have been placed in institutional settings, because in-home and community support services or funds to pay for these services have not been available to them; [1981, c. 511, §1 (NEW).]
- C. In some instances placement of adults with long-term care needs in institutional settings can result in emotional and social problems for these adults and their families; [2009, c. 279, §2 (AMD).]
- D. For many adults with long-term care needs, it is less costly for the State to provide in-home and community support services than it is to provide care in institutional settings; [2009, c. 279, §2 (AMD).]
- E. The majority of adults with long-term care needs have indicated a preference to remain in their own homes and in community settings rather than having their needs met in institutional settings; [2009, c. 279, §2 (NEW).]
- F. For many adults with long-term care needs and their families, the process to identify and secure appropriate services may be confusing and difficult to navigate; and [2009, c. 279, §2 (NEW).]
- G. A sustainable system of long-term care to meet the needs of citizens must emphasize in-home and community support services that capitalize upon personal and family responsibility. [2009, c. 279, §2 (NEW).]

[2009, c. 279, §2 (AMD) .]

2. Policy. The Legislature declares that it is the policy of this State, with regard to in-home and community support services:

- A. To increase the availability of long-term care services that are consumer-driven, optimize individual choice and autonomy and maximize physical health, mental health, functional well-being and independence for adults with long-term care needs through high-quality services and supports in settings that reflect the needs and choices of consumers and that are delivered in the most flexible, innovative and cost-effective manner; [2009, c. 279, §2 (AMD); 2009, c. 420, §1 (AMD).]
- B. That the priority recipients of in-home and community support services, pursuant to this subtitle, must be adults with long-term care needs who are at the greatest risk without needed in-home and community support services; [2009, c. 279, §2 (AMD); 2009, c. 420, §1 (AMD).]
- C. That a variety of agencies, facilities and individuals must be encouraged to provide in-home and community support services and to increase the percentages of adults with long-term care needs receiving in-home and community support services provided by persons who are employed as personal care assistants or direct support aides or by other providers. For the purposes of this paragraph, "direct support aide" means a personal care worker or direct support worker who provides a range of services, including personal daily living supports, health supports and community supports, to adults with long-term care needs; [2009, c. 546, §1 (AMD).]

D. To promote and encourage public and private partnerships among a variety of agencies, facilities and individuals; [2009, c. 279, §2 (NEW); 2009, c. 420, §1 (NEW).]

E. To support the roles of family caregivers and a qualified workforce in the effort to streamline and facilitate access to high-quality services in the least restrictive and most integrated settings; and [2009, c. 279, §2 (NEW); 2009, c. 420, §1 (NEW).]

F. To establish the most efficient and cost-effective system for delivering a broad array of long-term care services. [2009, c. 546, §2 (RPR).]

[2009, c. 546, §§1, 2 (AMD) .]

SECTION HISTORY

1981, c. 511, §1 (NEW). 2009, c. 279, §2 (AMD). 2009, c. 420, §1 (AMD). 2009, c. 546, §§1, 2 (AMD).

§7302. DEFINITIONS

As used in this subtitle, unless the context otherwise indicates, the following terms have the following meanings. [1981, c. 511, §1 (NEW).]

1. Adults with long-term care needs. "Adults with long-term care needs" means adults who have physical or mental limitations which restrict their ability to carry out activities of daily living and impede their ability to live independently, or who are at risk of being, or who already have been, placed inappropriately in an institutional setting.

[1981, c. 511, §1 (NEW) .]

1-A. Activities of daily living. "Activities of daily living" means activities as defined in federal and state rules including those essential to a person's daily living including: eating and drinking; bathing and hygiene; dressing, including putting on and removing prostheses and clothing; toileting, including toilet or bedpan use, ostomy or catheter care, clothing changes and cleaning related to toileting; locomotion or moving between locations within a room or other areas, including with the use of a walker or wheelchair; transfers or moving to and from a bed, chair, couch, wheelchair or standing position; and bed mobility or positioning a person's body while in bed, including turning from side to side.

[2009, c. 279, §3 (NEW) .]

2. Agreement. "Agreement" means a contract, grant or other method of payment.

[1981, c. 511, §1 (NEW) .]

3. Commissioner. "Commissioner" means the Commissioner of Health and Human Services.

[1981, c. 511, §1 (NEW); 2003, c. 689, Pt. B, §7 (REV) .]

3-A. Consumer. "Consumer" means a person eligible for services under this subtitle.

[2009, c. 279, §3 (NEW) .]

3-B. Consumer assessment. "Consumer assessment" means an evaluation of the functional capacity of an individual to live independently given appropriate supports with activities of daily living and instrumental activities of daily living or through the provision of information about service options that are available to meet the individual's needs.

[2009, c. 279, §3 (NEW) .]

4. Department. "Department" means the Department of Health and Human Services.

[1981, c. 511, §1 (NEW); 2003, c. 689, Pt. B, §6 (REV) .]

5. In-home and community support services. "In-home and community support services" means health and social services and other assistance required to enable adults with long-term care needs to remain in their places of residence. These services include, but are not limited to, self-directed care services; medical and diagnostic services; professional nursing; physical, occupational and speech therapy; dietary and nutrition services; home health aide services; personal care assistance services; companion and attendant services; handyman, chore and homemaker services; respite care; hospice care; counseling services; transportation; small rent subsidies; various devices that lessen the effects of disabilities; and other appropriate and necessary social services.

[2009, c. 652, Pt. A, §32 (RPR) .]

6. Institutional settings. "Institutional settings" means residential care facilities, licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and units and hospitals, licensed pursuant to chapter 405; and state institutions for individuals who have a mental illness or who have intellectual disabilities or autism or other related conditions.

[2011, c. 542, Pt. A, §46 (AMD) .]

6-A. Instrumental activities of daily living. "Instrumental activities of daily living" means the activities as defined in federal and state rules including those essential, nonmedical tasks that enable the consumer to live independently in the community, including light housework, preparing meals, taking medications, shopping for groceries or clothes, using the telephone, managing money and other similar activities.

[2009, c. 279, §3 (NEW) .]

7. Personal care assistance services. "Personal care assistance services" means services required by an adult with long-term care needs to achieve greater physical independence, which may be self-directed and include, but are not limited to:

- A. Routine bodily functions, such as bowel or bladder care; [1981, c. 511, §1 (NEW).]
- B. Dressing; [1981, c. 511, §1 (NEW).]
- C. Preparation and consumption of food; [1981, c. 511, §1 (NEW).]
- D. Moving in and out of bed; [1981, c. 511, §1 (NEW).]
- E. Routine bathing; [1981, c. 511, §1 (NEW).]
- F. Ambulation; and [1981, c. 511, §1 (NEW).]
- G. Activities of daily living and instrumental activities of daily living. [2009, c. 279, §3 (AMD) .]

[2009, c. 279, §3 (AMD) .]

8. Personal care assistant. "Personal care assistant" means an individual who has completed a training course of at least 40 hours, which includes, but is not limited to, instruction in basic personal care procedures, such as those listed in subsection 7, first aid and handling of emergencies; or an individual who meets competency requirements, as determined by the department or its designee; or, if providing service to a consumer receiving self-directed attendant services under chapter 1622, a person approved by the consumer or the consumer's surrogate as being able to competently assist in the fulfillment of the personal

care assistance services outlined in the consumer's plan of care. Nothing in Title 32, chapter 31, may be interpreted to require that a personal care assistant be licensed under that chapter or supervised by a person licensed under that chapter.

[2009, c. 279, §3 (AMD) .]

9. Provider. "Provider" means any entity, agency, facility or individual who offers or plans to offer any in-home or community support services or institutionally based long-term care services.

[2009, c. 279, §3 (AMD) .]

9-A. Qualified providers. "Qualified providers" means community-based agencies or a network of agencies with the organizational and administrative capacity to administer and monitor an array of in-home and community support services that will promote choice and portability with an emphasis on coordinating and implementing the services in the consumer's plan of care.

[2009, c. 279, §3 (NEW) .]

9-B. Self-directed care services. "Self-directed care services" means services procured and directed by the consumer or the consumer's surrogate that allow the consumer to reenter or remain in the community and to maximize independent living opportunities. "Self-directed care services" includes the hiring, firing, training and supervision of personal care assistants to assist with activities of daily living and instrumental activities of daily living.

[2009, c. 279, §3 (NEW) .]

10. Severe disability. "Severe disability" means a disability that results in persons having severe, chronic physical, sensory or cognitive limitations that restrict their ability to carry out activities of daily living and to live independently.

[2009, c. 279, §3 (AMD) .]

11. Surrogate. "Surrogate" means an unpaid agent of a consumer designated to assist with the management of the tasks associated with in-home and community support services.

[2009, c. 279, §3 (NEW) .]

SECTION HISTORY

1981, c. 511, §1 (NEW). 1987, c. 845, §1 (AMD). 1989, c. 332, (AMD). 2001, c. 596, §B10 (AMD). 2001, c. 596, §B25 (AFF). 2003, c. 689, §§B6,7 (REV). 2009, c. 279, §3 (AMD). 2009, c. 420, §2 (AMD). 2009, c. 652, Pt. A, §32 (AMD). 2011, c. 542, Pt. A, §46 (AMD).

§7303. PROGRAMS; RULES

1. Programs required. The department shall establish and administer, pursuant to this subtitle, programs of in-home and community support services for adults with long-term care needs, by itself or in cooperation with the Federal Government.

An adult with long-term care needs, who applies for services under any such program, is entitled to receive the services, provided that the department has determined that the adult is eligible and provided that sufficient funds are available pursuant to this subtitle to pay for the services.

[1981, c. 511, §1 (NEW) .]

2. Rules. The department shall promulgate such rules, including rules that specify the criteria to be used in ranking proposals, as may be necessary for the effective administration of any programs of in-home and community support services pursuant to this subtitle, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. In the development of such rules, the department shall consult with consumers, representatives of consumers or providers of in-home and community support services.

[1981, c. 511, §1 (NEW) .]

SECTION HISTORY

1981, c. 511, §1 (NEW).

§7304. DELIVERY OF SERVICES

1. Staff; providers. In order to provide in-home and community support services, the department may use its own staff and its designees and enter into agreements with providers.

[1981, c. 511, §1 (NEW) .]

2. Agreement. Each agreement shall specify, among other things, the types of in-home and community support services to be provided, the cost of the services, the method of payment and the criteria to be used for evaluating the provisions of services.

[1981, c. 511, §1 (NEW) .]

3. Proposals. The department shall solicit proposals from providers who would like to provide in-home and community support services, pursuant to this subtitle. Providers shall submit proposals in such form and manner as may be required by the department. The department shall select proposals according to rankings based on the criteria developed pursuant to section 7303, subsection 2.

[1981, c. 511, §1 (NEW) .]

SECTION HISTORY

1981, c. 511, §1 (NEW).

§7305. FUNDS

1. Federal and private funds. The department may apply for and use any federal or private funds and other support which become available to carry out any program of in-home and community support services.

[1981, c. 511, §1 (NEW) .]

2. Fee scale. The department shall develop, whenever practicable, sliding fee scales for in-home and community support services provided pursuant to this subtitle.

[1991, c. 2, §86 (COR) .]

3. Vouchers. The department may, through the use of vouchers, make payments directly to adults with long-term care needs to enable them to purchase in-home and community support services pursuant to this subtitle.

[1981, c. 511, §1 (NEW) .]

4. Distribution. The department shall disburse funds, pursuant to this subtitle, in a manner that ensures, to the extent practicable, equitable distribution of services among adults with long-term care needs and among the various regions of the State.

[1981, c. 511, §1 (NEW) .]

SECTION HISTORY

1981, c. 511, §1 (NEW). RR 1991, c. 2, §86 (COR).

§7306. DEMONSTRATION PROJECTS

The department may initiate demonstration projects to test new ways of providing in-home and community support services, including, but not limited to, projects which test the ability of hospitals, skilled nursing facilities or intermediate care facilities to provide these services. [1981, c. 511, §1 (NEW) .]

SECTION HISTORY

1981, c. 511, §1 (NEW).

§7307. RELATIVES AS PROVIDERS

The department may not refuse to pay a relative of an adult with long-term care needs for the provision of in-home and community support services or personal care assistance services if the relative is qualified to provide the service and the payment is not prohibited by federal law or regulation. [1989, c. 714, (NEW) .]

SECTION HISTORY

1989, c. 714, (NEW).

§7308. RESPITE CARE FUND

The department shall administer the Respite Care Fund for the purpose of providing short-term respite care for persons with Alzheimer's disease and other dementias. This respite care may include short-term in-home care, nursing or residential care facility stays, hospital or adult day care or home modifications. The department also may use the fund to carry out the purposes of the National Family Caregiver Support Program. [2001, c. 487, §1 (AMD) .]

SECTION HISTORY

1989, c. 875, §E42 (NEW). 2001, c. 487, §1 (AMD).

§7309. IN-HOME PROVIDERS

(REPEALED)

A landlord may not charge a tenant additional rent or utilities for a person who provides in-home and community support services to the tenant. A landlord may request a letter from the Department of Health and Human Services to verify a tenant's eligibility for the use of in-home or community support services. This section is repealed January 1, 2009. [2007, c. 387, §1 (NEW) .]

SECTION HISTORY

2007, c. 387, §1 (NEW). MRSA T. 22, §7309 (RP).

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